



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

ATTITUDE OF THE DISTILLERS AND WHOLESALE LIQUOR DEALERS ON THE REGULATION OF THE LIQUOR TRAFFIC

BY DAVID STAUBER,
Secretary, National Wholesale Liquor Dealers' Association of America,
Cincinnati, O.

The men engaged in the wine and spirit industry, either as manufacturers or distributors, have every reason to favor a proper regulation of their business. A hundred reasons could be advanced for this, but ninety-nine are of secondary importance in comparison with the premise that without regulation there can be no stability to the business and without stability, profits are uncertain.

The interest of the distillers and wholesalers in the regulation of the liquor traffic begins, of course, at the point where most liquor legislation centers, namely, the place of retail distribution, which brings us to the saloon.

The attitude of distillers and wholesalers on the regulation of the business is, and always has been, the same as that of all good citizens, to support such a system of laws as will protect both the public and the retail liquor merchant. In many states there are laws in force which were apparently enacted with a view of protecting the one and ignoring the other, and there are a number of laws in force which protect neither.

The platform of principles adopted by the National Wholesale Liquor Dealers' Association at its last annual convention reflects, I believe, the best sentiment of the liquor trade on the question of regulation. The organization adopting this platform is composed of nearly one thousand of the largest distilling and wholesale liquor firms in the United States, representing in volume of business and capital invested at least ninety-five per cent of the trade.

PLATFORM OF THE NATIONAL WHOLESALE LIQUOR DEALERS' ASSOCIATION,
ADOPTED JUNE 24, 1908.

We, the members of the National Wholesale Liquor Dealers' Association, in convention assembled, hereby submit to the people of the United States our beliefs and principles: being but a reiteration of the views always held by our trade:

A. Prohibition and local option legislation works confiscation of property, and we most solemnly protest that confiscation of property, without due process of law and without just compensation, is contrary to the spirit of American institutions and should not be tolerated by a free people.

B. The liquor traffic was created and has been supported since time out of mind by the demand for alcoholic beverages, that has characterized all progressive peoples of all ages.

B2. It is true that in the growth and development of our industry, in common with all others, be they railroads, insurance or banking, excesses have crept in which menace the welfare of those engaged in them. It is as unfair to say, as it is impossible to achieve, that the evils can be cured only by destroying the industry.

C. It is the blight of our business that it is everywhere made the victim of political contentions and manipulations, instead of being recognized on its merits as presenting questions of purely sociological and economic character.

C2. It is also unfortunately true that the attempts of the Anti-Saloon League to control the legislatures of our state have thwarted our every effort to take our business out of the field of politics, and have forced us into politics for the preservation of our property and the defense of our constitutional rights.

D. The claim of the prohibitionists that the saloon is responsible for all wickedness is not only untrue, but unfair. While the regulation of the saloon in some cases may be improved upon, yet it must be conceded by the public that much of this duty devolves upon the officers of the municipalities.

D2. Be it the sense of this convention, that we as an organization and as wholesale liquor dealers, make every effort to assist officers of the law to the end that the saloon business may be placed upon the same plane as all other commercial interests.

E. It is our firm conviction that those who honestly seek to promote the cause of true temperance will find the surest and safest method in the continuance of the licensed saloon, conducted under proper laws and reasonable regulations strictly enforced.

E2. In the granting of a license, the character of the applicant and not the fee should be the principal determining factor.

F. Finally, we believe in the subordination of the interests of individual citizens to the interests of the community as a whole, but not in the curtailment of the personal rights and liberties of one class or party of citizens to satisfy the demands of another class or party who may desire to waive such personal rights and liberties for themselves.

It will be seen from the expression of the national organization that the licensed saloon is favored as the safest method of promoting true temperance; saloons to be conducted "under proper laws and reasonable regulations, strictly enforced."

I have found it to be the consensus of opinion among the most conservative men in the trade that the only state license law which

fairly meets this view of the national organization is the Brooks License Law of Pennsylvania, and it is one of the few license laws which admit of strict enforcement. Under this law the license-granting power is vested in the judges of the courts of common pleas, absolutely removing the question from the plane of so-called "practical politics." Another admirable feature of this law is that which prevents the transfer of a license until after all claims of creditors are fully satisfied.

During the past hundred years Pennsylvania has experimented with more laws regulating the liquor traffic than any other state in the Union, and they have run the whole gamut. The Brooks Law is the natural result of this experience, and many of the laws tried and found wanting in Pennsylvania are being copied and experimented with to-day by other states. The greatest stumbling blocks in the way of true reform are so-called prohibition laws, loose license laws, and no license laws, Maine and North Carolina offer examples of bad prohibition laws—(all are bad, but these are the worst); New Jersey of a loose license law, and Ohio is the most shining example of iniquitous liquor legislation in the entire country.

To particularize: The report of the sheriff of Penobscot County, Maine, for the fiscal year, shows a net profit accruing to that county from the sale of liquors seized and fines assessed and collected for illicit sale of same aggregating between \$7,000.00 and \$8,000.00. This is a fair example of how prohibition prohibits.

The new prohibition law of North Carolina, while directing:

Section 1. That it shall be unlawful for any person or persons, firm or corporation to manufacture or in any manner make, or sell or otherwise dispose of, for gain, any spirituous, vinous, fermented or malt liquors or intoxicating bitters within the State of North Carolina.

provides further:

That wines and ciders may be manufactured or made from grapes, berries or fruits, and wine sold at the place of manufacture only, and only in sealed or crated packages containing not less than two and a half gallons per package; but no wine, when sold, shall be drunk upon the premises where sold, nor shall the package containing the same be opened on said premises; and provided further, that nothing herein contained shall be construed to prevent the sale of cider, in any quantity, by the manufacturer from fruits grown on his lands within the State of North Carolina.

This might be called prohibition against those on the outside, but not against those on the inside.

In New Jersey the license-granting power is usually vested in the municipal boards of aldermen. This is the kind of a law that results in bringing the retail liquor merchant under the thumb of the ward politician. This statement can be verified frequently by anyone who reads the newspapers. Is it to be wondered at that the retail liquor dealer is in politics? In New Jersey for many years it has been the custom for the boards of aldermen to transfer retail licenses to the brewers, and these are kept locked up in the brewers' safes and the retail place is run by some irresponsible agent of the manufacturer.

It is worth while to compare this New Jersey law with the Brooks Law of Pennsylvania. In Pennsylvania no person can be the holder of more than one license. This creates an independent class of retailers, who, having a business at stake with all the collateral connections that this suggests, obey the law; whereas, in states where there is no such restriction, the irresponsible agent, having everything to gain and nothing except a nominal wage to lose by irregularities—(his profits are kept down to that point where he is always an employee), working as he does for what may be granted him, ground down mercilessly by a combination which recognizes no such things as decency or "a square deal," with the hope of independence almost realized but shattered at every settlement day, eagerly resorts to practices which the independent dealer would not stoop to adopt. There is no secret about the fact, either inside or outside of the liquor trade, that the average licensed saloon, owned by the man who runs it, is rarely placed in the category of "the dive."

I have saved Ohio for the last analysis, because I believe it furnishes the best illustration of the injury that is done to society by vicious and ignorant legislation.

The constitution of the State of Ohio prohibits the issuance of a license for the manufacture or sale of intoxicating liquors, although I have been advised by constitutional lawyers that this violates one of the clauses of the act of congress establishing the Northwest Territory, of which Ohio was once a part. I want to hold this irregularity to view, for the reason that the validity of the Dow Law of 1886, which placed a special tax of \$350.00 per year

on the business of manufacturing or selling intoxicating liquors (since raised to \$1,000.00 under the Aiken Act) was itself brought into question in the case of *Adler vs. Whitbeck* (Ohio State Reports, 44) and its constitutionality attacked on the ground that it would operate as a license law, etc. While the validity of the Dow Act was, in effect, affirmed by the Ohio Supreme Court in the case cited, it is interesting to observe that it was by a three to two vote, the Chief Justice, Owen, and J. Follett dissenting.

I have discussed this Ohio decision with some of the most able members of the Ohio bar, and I have not found one who disagreed with me in the statement that at least three members of the Supreme Court of Ohio most emphatically stultified themselves in rendering that decision. The only plausible excuse that I have ever heard offered for this decision is that "the state needed the revenue." On the same high moral ground a knight of the road calls out in the moonlight: "Gentlemen, stand and deliver!" With such an example from the highest tribunal of the state, is it surprising that there are violators of Sunday closing ordinances?

To set itself right, one of two steps should be taken by the State of Ohio:

First: Provide by legislative enactment a specific penalty for the manufacture or sale of intoxicating liquors;¹ or,

Second: Submit for adoption to the people of the state a resolution of the legislature repealing the clause of the constitution prohibiting the issuing of a license, and provide for a license law that can be enforced and under which the traffic can be properly regulated.

At present all that is necessary to do to open a retail liquor store in Ohio is to rent a place and pay the tax! It would be a waste of words to enlarge upon what this means.

This has a pertinent bearing on the subject of regulation, for without a working hypothesis—a rational license system—all so-called reforms are mere makeshifts unworthy of serious thought. With a proper license law, the state would have something on which to base genuine reforms. This would not please the political harpies who prey upon the ignorant and vicious, nor would it suit the job-hunters of the Anti-Saloon League, whose chief interest lies

¹Under the criminal code, it is possible that this clause might have been enforced, but it was never invoked, and the method is regarded by constitutional lawyers as impracticable.

in agitation and not in any sane solution of the problem. They are as much opposed to license as they are at heart to prohibition. Their "graft" is perpetual local option agitation. The accomplishment of license or prohibition would result in their either starving or having to hunt honest work.

The statement has been made by irresponsible enemies of the liquor trade that the distillers and wholesalers are anxious to distract public attention from their own shortcomings by general agitation of the regulation of the saloon, but that they are unwilling to regulate themselves. In challenging this statement, I offer in evidence a resolution adopted at the Niagara Falls convention of the National Wholesale Liquor Dealers' Association, in June last² with regard to obscene advertising. This resolution, to my personal knowledge, is the outgrowth of several years' earnest effort on the part of the association to stamp out an abuse on the part of a few dealers which has discredited a great industry. The word has now gone out that the instructions contained in this resolution will be faithfully carried out by the executive committee of the association, even if it results in publicly branding as shameless culprits members of firms with an ancient and honorable standing in the liquor trade.

²RESOLUTION.

We reaffirm resolutions adopted at previous conventions, condemning the practice on the part of a few dealers, of issuing obscene, lascivious or suggestive advertisements and labels in connection with the sale of liquors, and we urge the executive committee to secure, if possible, the discontinuance of such practices in all such cases that may be brought to its attention. We direct the executive committee, upon failure or refusal of the offending parties to discontinue the practices complained of, to institute legal proceedings against such party or parties, and if they be members of the association, that they shall also be expelled from the association, as provided in Article VIII, Section 3, of our By-Laws,